

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ELSON MARCELO, PETR BOGOPOLSKIY,
JASON SALES, ASHLEY ELLIS, DAVID
SIMARD, THIEN LUONG, RHONDA
FELIX, STEPHANIE FRIEDMAN,
WORKINEH WOLIE, ABDUL REHMAN,
DAVID SAMRA, MOHAMMED SHAIK,
SALEH ALBADWI, TANESHA
CALDWELL, STARR CAMPBELL, and
SERGIO GARNICA,

Plaintiffs,

v.

AMAZON.COM, INC., and
AMAZON LOGISTICS, INC.,

Defendants.

Case No. 3:21-CV-07843-JD

**[PROPOSED] ORDER RE
DEFENDANTS' MOTION TO
COMPEL ARBITRATION AND
DISMISS, OR, IN THE
ALTERNATIVE, TO TRANSFER,
STAY OR DISMISS UNDER THE
FIRST-TO-FILE RULE**

Hearing date: February 24, 2022

Time: 10 a.m.

Courtroom: 11, 19th floor

Honorable James Donato

1 **[PROPOSED] ORDER**

2 THIS MATTER came before the Court on Defendants' Motion to Compel Arbitration and
3 Dismiss Plaintiffs' Complaint, or in the alternative, to stay, transfer, or dismiss under the first-to-
4 file rule. The Court having read and considered Defendants' Motion, the briefing of the parties
5 and arguments raised by the parties at the hearing, and with GOOD CAUSE APPEARING, the
6 Court hereby orders as follows:

7 **NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

8 1. Defendants' Motion to Compel Arbitration and Dismiss is GRANTED: Plaintiffs'
9 claims are hereby compelled to arbitration and this matter shall be dismissed with prejudice.
10 Under the FAA, Plaintiffs' arbitration agreements are valid, binding, and legally enforceable. *See*
11 9 U.S.C. § 2. Plaintiffs entered into valid agreements to arbitrate any and all claims or disputes
12 that arise out of or relate in any way to Plaintiffs' participation in the Amazon Flex program or
13 performance of services thereunder, including claims stemming from alleged violations of wage
14 and hour laws during Plaintiffs' participation in the Amazon Flex program. Plaintiffs' claims in
15 this action fall within the scope of their agreements to arbitrate. Plaintiffs are hereby ordered to
16 arbitrate their claims against Defendants and this action is dismissed with prejudice.

17 [AND/OR]

18 2. Defendants' Motion to Stay, Transfer or Dismiss under the First-to-File Rule is
19 GRANTED: The Court dismisses, stays, or transfers Plaintiffs' claims under the first-to-file rule.
20 This action shall be transferred to the Western District of Washington. Or: This action shall be
21 stayed pending the resolution of *Rittmann*. Or: This action shall be dismissed in favor of the
22 previously filed *Rittmann* action.

23 **IT IS SO ORDERED.**

24
25 Dated: _____

By: _____
HON. JAMES DONATO